

**2014**

**CUMULATIVE SUPPLEMENT**

TO

**MISSISSIPPI CODE**

**1972 ANNOTATED**

**Issued September 2014**

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI  
ENACTED THROUGH THE 2014 REGULAR SESSION  
AND 1ST AND 2ND EXTRAORDINARY SESSIONS  
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF  
THE LEGISLATURE

SUPPLEMENTING

**Volume 14A**

**Titles 67 to 69**

**(As Revised 2012)**

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By the Editorial Staff of the Publisher



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5464711

ISBN 978-0-327-09628-3 (Code set)  
ISBN 978-0-7698-5380-2 (Volume 14A)



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701 E Water Street, Charlottesville, VA 22902-5389

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## **User's Guide**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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## PUBLISHER'S FOREWORD

### Statutes

The 2014 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2014 Regular Session and 1st and 2nd Extraordinary Sessions.

### Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series

United States Supreme Court Reports

Supreme Court Reporter

United States Supreme Court Reports, Lawyers' Edition, 2nd Series

Federal Reporter, 3rd Series

Federal Supplement, 2nd Series

Federal Rules Decisions

Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series

American Law Reports, Federal 2nd

Mississippi College Law Review

Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

### Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

### Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

## PUBLISHER'S FOREWORD

### **Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

### **Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2014 Regular Session and 1st and 2nd Extraordinary Sessions.

### **Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

### **Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2014

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## **SCHEDULE OF NEW SECTIONS**

Added in this Supplement

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#### **CHAPTER 1. Local Option Alcoholic Beverage Control**

**SEC.**

67-1-52. Holder of package retailer's permit authorized to conduct tasting or sampling events subject to certain conditions [Repealed effective July 1, 2015].

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69-1-373. Definitions.

69-1-375. Certificates of free trade for agricultural products grown or manufactured in, or distributed and sold from Mississippi; contents of request for certificate.

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69-45-5. Definitions.



# MISSISSIPPI CODE 1972

*ANNOTATED*

## VOLUME FOURTEEN A

### TITLE 67

#### ALCOHOLIC BEVERAGES

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### CHAPTER 1

#### Local Option Alcoholic Beverage Control

SEC.	
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67-1-46.	Certain holders of manufacturer's distiller's permits authorized to provide limited amounts of alcoholic beverages on premises for tasting or sampling subject to certain conditions.
67-1-51.	Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household.
67-1-52.	Holder of package retailer's permit authorized to conduct tasting or sampling events subject to certain conditions [Repealed effective July 1, 2015].
67-1-75.	Offenses by holder of package retailer's permit or by employee thereof; penalty.

#### § 67-1-5. Definitions.

For the purposes of this chapter and unless otherwise required by the context:

(a) "Alcoholic beverage" means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines. The words "alcoholic beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes or beer of an alcoholic content of more than eight percent (8%) by weight if the beer is legally manufactured in this state for sale in another state.

(b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) "Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) "Wine" or "vinous liquor" means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.

(e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

(h) "Retailer" means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

(i) "State Tax Commission," "commission" or "department" means the Department of Revenue of the State of Mississippi, which shall create a division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission or the department hereafter means the powers and duties of the Department of Revenue with reference to supervision of the Alcoholic Beverage Control Division.

(j) "Division" means the Alcoholic Beverage Control Division of the Department of Revenue.

(k) "Municipality" means any incorporated city or town of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means:

(i) A place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has

suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. Except as otherwise provided in this paragraph, no place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue; or

(ii) Any privately owned business located in a building in a historic district where the district is listed in the National Register of Historic Places, where the building has a total occupancy rating of not less than one thousand (1,000) and where the business regularly utilizes ten thousand (10,000) square feet or more in the building for live entertainment, including not only the stage, lobby or area where the audience sits and/or stands, but also any other portion of the building necessary for the operation of the business, including any kitchen area, bar area, storage area and office space, but excluding any area for parking. In addition to the other requirements of this subparagraph, the business must also serve food to guests for compensation within the building and derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales to live entertainment in the building, and from the rental of all or part of the facilities of the business in the building to another party for a specific event or function.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcoholic beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file

with the department, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park;

2. The clubhouse and associated golf course where the golf course is adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units;

3. Any facility located on property that is a game reserve with restricted access that consists of at least three thousand (3,000) contiguous acres with no public roads and that offers as a service hunts for a fee to overnight guests of the facility;

4. Any facility located on federal property surrounding a lake and designated as a recreational area by the United States Army Corps of Engineers that consists of at least one thousand five hundred (1,500) acres;

5. Any facility that is located in a municipality that is bordered by the Pearl River, traversed by Mississippi Highway 25, adjacent to the boundaries of the Jackson International Airport and is located in a county which has voted against coming out from under the dry law; however, any such facility may only be located in areas designated by the governing authorities of such municipality;

6. Any municipality with a population in excess of ten thousand (10,000) according to the latest federal decennial census that is located in a county that is bordered by the Pearl River and is not traversed by Interstate Highway 20, with a population in excess of forty-five thousand (45,000) according to the latest federal decennial census;

7. The West Pearl Restaurant Tax District as defined in Chapter 912, Local and Private Laws of 2007;

8. Land that is owned by the Pearl River Valley Water Supply District and located in any county in which Mississippi Highway 43 and Mississippi Highway 25 intersect;

9. Any facility located on property that is a game reserve with restricted access that consists of at least eight hundred (800) contiguous acres with no public roads, that offers as a service hunts for a fee to overnight guests of the facility, and has accommodations for at least fifty (50) overnight guests.

The status of these municipalities, districts, clubhouses, facilities, golf courses and areas described in subparagraph (iii) of this paragraph (o) as qualified resort areas does not require any declaration of same by the department.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation of the juice of ripe grapes, fruits, berries or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The department shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced, in whole or in part, for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and

breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to the Board of Tax Appeals of the State of Mississippi.

(t) "Spa facility" means an establishment within a municipality or qualified resort area and owned by a hotel where, in consideration of payment, patrons receive from licensed professionals a variety of private personal care treatments such as massages, facials, waxes, exfoliation and hairstyling.

(u) "Art studio or gallery" means an establishment within a municipality or qualified resort area that is in the sole business of allowing patrons to view and/or purchase paintings and other creative artwork.

(v) "Cooking school" means an establishment within a municipality or qualified resort area and owned by a nationally recognized company that offers an established culinary education curriculum and program where, in consideration of payment, patrons are given scheduled professional group instruction on culinary techniques. For purposes of this paragraph, the definition of cooking school shall not include schools or classes offered by grocery stores, convenience stores or drugstores.

**SOURCES:** Codes, 1942, § 10265-05; Laws, 1966, ch. 540, § 5; Laws, 1976, ch. 467, § 12; Laws, 1977, ch. 488, § 2; Laws, 1980, ch. 348, § 1; Laws, 1984, ch. 425, § 1; Laws, 1987, ch. 358; Laws, 1988, ch. 384; Laws, 1990, ch. 569, § 3; Laws, 1994, ch. 558, § 20; Laws, 1998, ch. 306, § 2; Laws, 1999, ch. 453, § 19; Laws, 2004, ch. 397, § 1; Laws, 2008, ch. 366, § 1; Laws, 2009, ch. 465, § 1; Laws, 2009, ch. 492, § 126; Laws, 2009, ch. 558, § 1; Laws, 2012, ch. 323, § 2; Laws, 2012, ch. 428, § 1; Laws, 2012, ch. 501, § 7; Laws, 2014, ch. 346, § 1, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment added (o)(iii)8 and (o)(iii)9; in the paragraph following (o)(iii)9, substituted a comma for "and" and inserted "and areas" following "golf courses"; and made minor punctuation changes throughout.

## § 67-1-16. Election on question of whether qualified resort to be allowed in municipality; designation of municipality as qualified resort area; county election on question of whether area should be qualified resort area.

(1)(a) Before an area may be designated by the governing authorities of a municipality as an area in which facilities which are defined as qualified resort areas in Section 67-1-5(o)(iii)5 may be located, an election shall be held, under the election laws applicable to the municipality, on the question of whether qualified resort areas shall be allowed in the municipality. An election to determine whether qualified resort areas shall be allowed in the municipality shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipi-

pality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF QUALIFIED RESORT AREAS," and next below, "AGAINST THE ESTABLISHMENT OF QUALIFIED RESORT AREAS." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) Qualified resort areas may be established if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(2)(a) Before a municipality may be designated as a qualified resort area as defined in Section 67-1-5(o)(iii)6, an election shall be held, under the election laws applicable to the municipality, on the question of whether the municipality shall be a qualified resort area. An election to determine whether the municipality shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The municipality may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(3)(a) Before an area may be designated a qualified resort area as defined in Section 67-1-5(o)(iii)7, an election shall be held in the municipality in which the area is located under the election laws applicable to the municipality, on the question of whether the area shall be a qualified resort area. An election to determine whether the area shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The area may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(4)(a) Before an area may be designated a qualified resort area as defined in Section 67-1-5(o)(iii)8, an election shall be held in the area described in Section 67-1-5(o)(iii)8 under the election laws applicable to counties, on the question of whether the area shall be a qualified resort area. An election to determine whether the area shall be a qualified resort area shall be ordered by the board of supervisors, upon presentation to the board of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the area described in Section 67-1-5(o)(iii)8 asking for the election. An election on the question may not be held by the county more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the area, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The area may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

**SOURCES:** Laws, 2009, ch. 558, § 2, eff May 26, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section); Laws, 2014, ch. 346, § 2, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment added (4).

**§ 67-1-17. Unlawful possession of alcoholic beverages; seizure and sale.****JUDICIAL DECISIONS****1. In general.**

Section 67-1-17, providing for the seizure of unlawful alcoholic beverages, violates federal due process requirements by failing to provide for reasonable notice to the owner of a seized vehicle prior to its forfeiture. However, notice to the owner of a seized vehicle advising him of the pen-

dency of a subsequent forfeiture proceeding, provided by § 99-27-11, and the owner's opportunity to interpose a claim to the seized property prior to its forfeiture, provided by § 99-27-13, satisfy due process notice and hearing requirements. Holladay v. Roberts, 425 F. Supp. 61 (N.D. Miss. 1977).

**§ 67-1-46. Certain holders of manufacturer's distiller's permits authorized to provide limited amounts of alcoholic beverages on premises for tasting or sampling subject to certain conditions.**

The holder of a manufacturer's distiller's permit who distills alcoholic beverages at a distillery located in this state may offer and provide limited amounts of alcoholic beverages on the premises of the distillery for the purpose of tasting or sampling, subject to the following conditions:

- (a) The alcoholic beverages provided for tasting or sampling must be manufactured in this state by the holder of the permit operating the distillery at the site of and on the premises of the distillery;
- (b) The alcoholic beverages may be provided only to persons on the premises of the distillery at no cost and for consumption on the premises of the distillery;
- (c) The alcoholic beverages may be provided for tasting or sampling between the hours of 8:00 a.m. and 10:00 p.m. on the same day and only in conjunction with a structured tour of the distillery and related facilities which must include the entire manufacturing and distilling processes and methods used at the distillery;
- (d) No one under twenty-one (21) years of age may participate in the tasting or sampling, and a sign indicating that prohibition shall be placed in a visible location at the entrance to the area where the tasting or sampling will be conducted;
- (e) An individual size sample of alcoholic beverages shall not exceed one-fourth (1/4) ounce, and no more than four (4) samples of alcoholic beverages may be provided to an individual within a twenty-four-hour period; and
- (f) The holder of the permit operating the distillery shall keep an accurate accounting of the various alcoholic beverages provided and consumed as samples.

**SOURCES:** Laws, 2013, ch. 352, § 1, eff from and after passage (approved March 18, 2013.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error by deleting the (1) designator at the beginning of the section. The Joint Legislative Committee ratified the correction at its August 1, 2013, meeting.

**§ 67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household.**

(1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** — A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the department.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) **Package retailer's permit.** — Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new product furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this chapter and applicable department regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** — An on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines,

for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Such a permit shall be issued only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales.

(d) **Solicitor's permit.** — A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** — A native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery.

(f) **Temporary retailer's permit.** — A temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57

(excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(l), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit

shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (l) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** — A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** — A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** — An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An

alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** — A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** — A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(l) **Merchant permit.** — A merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary wine charitable auction permit.** — A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell wine for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of wine is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the wine to be auctioned must be stored separately from the wine sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** — An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The caterer must serve at least three (3) entrees. The permit may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required

to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer or light wine sales or any fee which may be construed to cover the cost of alcohol, beer or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

**SOURCES:** Codes, 1942, §§ 10265-18, 10265-19, 10265-26; Laws, 1966, ch. 540, §§ 18, 19, 26; Laws, 1976, ch. 467, § 18; Laws, 1988, ch. 302, § 1; Laws, 1988, ch. 383, § 2; Laws, 1989, ch. 484, § 1; Laws, 1992, ch. 574, § 2; Laws, 1994, ch. 538, § 4; Laws, 1996, ch. 417, § 2; Laws, 1997, ch. 487, § 1; Laws, 2000, ch. 307, § 1; Laws, 2006, ch. 529, § 5; Laws, 2007, ch. 462, § 8; Laws, 2008, 1st Ex Sess, ch. 48, § 1; Laws, 2009, ch. 465, § 2; Laws, 2012, ch. 566, § 2; Laws, 2014, ch. 516, § 1; Laws, 2014, ch. 527, § 1, eff from and after July 1, 2014.

**Joint Legislative Committee Note** — Section 1 of Chapter 516, Laws of 2014, effective from and after July 1, 2014 (approved April 23, 2014), amended this section. Section 1 of Chapter 527, Laws of 2014, effective from and after July 1, 2014 (approved April 23, 2014), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second sentence of (1)(c) by substituting “Such a permit shall be issued only to...” for “Such a permit shall issue only to...” The Joint Committee ratified the correction at its July 24, 2014, meeting.

**Amendment Notes** — The first 2014 amendment (ch. 516), in (1)(b), inserted “and 67-1-52” following “provided in this paragraph” in the first sentence and, added the third and fourth sentences.

The second 2014 amendment (ch. 527) added (1)(n).

## **§ 67-1-52. Holder of package retailer's permit authorized to conduct tasting or sampling events subject to certain conditions [Repealed effective July 1, 2015].**

A package retailer's permit issued under Section 67-1-51(b) shall, with prior written approval from the department, authorize tasting or sampling events to be conducted at the package retailer's permitted place of business during which tastes or samples of alcoholic beverages may be offered or served to consumers at no cost. During a tasting or sampling event authorized by this section, limited amounts of alcoholic beverages may be consumed on the permitted place of business. A tasting or sampling event shall not authorize the sale of alcoholic beverages for consumption on the permitted place of business, but shall only authorize the limited consumption of alcoholic beverages at the permitted place of business for the sole purpose of tasting or sampling various alcoholic beverages. A tasting or sampling event shall be conducted completely within an area that is cordoned off by barriers clearly separating the event from the point of sale of any alcoholic beverage and may last not longer than four (4) hours. No one under twenty-one (21) years of age may participate in a tasting or sampling event and a sign indicating this shall be placed in a clearly visible location at the entrance to the area where the tasting or sampling event will be conducted. No food may be served or sold at a tasting or sampling event. Each sample of wine served at the event shall not exceed one and one-fourth (1-1/4) ounces and no more than a cumulative total of five (5) ounces of wine may be dispensed to any one (1) person during a tasting or sampling event. Each sample of a distilled spirit served at the event shall not exceed one-fourth (1/4) of an ounce and no more than a cumulative total of one (1) ounce of distilled spirits may be dispensed to any one (1) person during a tasting or sampling event. All product tasted or sampled at the event must be provided by the package retailer from its inventory. Such product cannot be sample product

provided by a manufacturer and must have been purchased from the department warehouse or from a licensed wholesaler. Only employees of the package retailer may serve any product for tasting or sampling at the event. Tickets for a tasting or sampling event shall not be sold in the permitted place of business or any other location. The holder of a tasting or sampling event shall keep an accurate accounting of the various alcoholic beverages and amounts consumed at each tasting or sampling event and must provide a copy of the accounting to the department within ten (10) days of completion of the event. The holder of a package retailer's permit may conduct not more than one (1) event in a three-month period.

This section shall be repealed from and after July 1, 2015.

**SOURCES:** Laws, 2014, ch. 516, § 2, eff from and after July 1, 2014.

**§ 67-1-75. Offenses by holder of package retailer's permit or by employee thereof; penalty.**

If the holder of a package retailer's permit, or any employee thereof:

(a) Shall sell, offer for sale or permit to be sold in, on or about the premises covered by such permit any alcoholic beverages except in the original sealed and unopened packages; or

(b) Shall permit the drinking or consumption of any alcoholic beverages in, on or about the premises covered by such permit except as may be otherwise authorized by this chapter; or

(c) Shall sell, offer for sale or permit the sale in, on or about the premises of alcoholic beverages in any package or container containing less than fifty (50) milliliters by liquid measure; then such person or employee shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court. In addition, in the case of the commission of any of such offenses by the holder of a permit, it shall be the duty of the commission forthwith to revoke the permit held by such person and conviction of the criminal offense shall not be a condition precedent to such revocation.

**SOURCES:** Codes, 1942, § 10265-25; Laws, 1966, ch. 540, § 25; Laws, 1977, ch. 418; Laws, 1988, ch. 383, § 3; Laws, 2014, ch. 516, § 3, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment added "except as may be otherwise authorized by this chapter" near the end of (b).

## CHAPTER 3

### Sale of Light Wine, Beer, and Other Alcoholic Beverages

SEC.

67-3-7.

Local option elections in county.

67-3-11. Homemade wine or beer.  
67-3-13. Prohibition against possession of light wine and beer in dry counties; penalty; exceptions.  
67-3-15. Permit and/or license required.

**§ 67-3-7. Local option elections in county.**

(1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer shall not be permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture of such beverages shall be excluded from any county in the state, shall, on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors of the county, for such county only. No election on the question shall be held in any one county more often than once in five (5) years.

In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine or beer shall not be permitted in the county, an election may be held in the same manner as the election hereinabove provided on the question of whether or not the transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer or wine as defined herein.

(3) Nothing in this section shall make it unlawful to:

- (a) Possess or consume light wine or beer at a qualified resort area as defined in Section 67-1-5;
- (b) Sell, distribute and transport light wine or beer to a qualified resort area as defined in Section 67-1-5;
- (c) Sell light wine or beer at a qualified resort area as defined in Section 67-1-5 if such light wine or beer is sold by a person with a permit to engage in the business as a retailer of light wine or beer;
- (d) Transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;
- (e) Transport homemade beer as authorized in Section 67-3-11.

**SOURCES:** Codes, 1942, § 10208; Laws, 1934, ch. 171; Laws, 1942, ch. 224; Laws, 1956, ch. 252; Laws, 1958, ch. 279; Laws, 1996, ch. 417, § 9; Laws, 1998, ch. 306, § 5; Laws, 2004, ch. 397, § 5; Laws, 2012, ch. 323, § 5; Laws, 2012, ch. 501, § 3; Laws, 2013, ch. 345, § 2, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment added (3)(e); and made a minor stylistic change.

### § 67-3-11. Homemade wine or beer.

(1) Every person shall have the right to make homemade wine for domestic or household uses only, free of all restraint by this chapter or otherwise, and no such election as provided for in Sections 67-3-7, 67-3-9 and 67-3-13, shall deprive any person of the right to make homemade wine for domestic or household uses only.

(2)(a) Every person twenty-one (21) years of age or older shall have the right to make homemade beer for personal, family, domestic or household uses without restraint by this chapter or otherwise if the beer is made in a county or municipality in which the possession of light wine or beer is lawful.

(b) The maximum amount of homemade beer that a person may make in a calendar year shall not exceed:

(i) One hundred (100) gallons if there is only one (1) person over the age of twenty-one (21) years of age residing in the household; and

(ii) Two hundred (200) gallons if there are two (2) or more persons over the age of twenty-one (21) years residing in the household.

(c) A person who makes homemade beer as authorized in this section may remove the beer from the premises of the household where it is made and transport the beer only for the purpose of participating in a bona fide exhibition, contest or competition where homemade beer is being tasted and judged; however, homemade beer may not be sold or offered for sale under any circumstances.

**SOURCES:** Codes, 1942, §§ 10209, 10227; Laws, 1934, ch. 171; Laws, 2013, ch. 345, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment added (2).

### § 67-3-13. Prohibition against possession of light wine and beer in dry counties; penalty; exceptions.

(1) Except as otherwise provided herein and as authorized under this section and Section 67-9-1, in any county which has at any time since February 26, 1934, elected, or which may hereafter elect, to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than four percent (4%) by weight in such county, it is hereby declared to be unlawful to possess such beverages therein. In any county which, after July 1, 1998, elects to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than five percent (5%) by weight in such county, it is hereby

declared to be unlawful to possess such beer therein. In any county which, after July 1, 2012, elects to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine of an alcoholic content of not more than five percent (5%) by weight in such county and beer of an alcoholic content of not more than eight percent (8%) by weight, it is hereby declared to be unlawful to possess such beer therein. Any person found possessing any beer or wine of any quantity whatsoever in such county shall, on conviction, be imprisoned not more than ninety (90) days or fined not more than Five Hundred Dollars (\$500.00), or be both so fined and imprisoned.

(2) Notwithstanding the provisions of subsection (1) of this section, in any county or municipality in which the transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful for a permitted wholesaler or distributor to possess light wine and beer when such light wine and beer is held therein solely for the purpose of storage and for distribution to other counties and municipalities in which possession of such beverages is lawful.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in any county in which transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful:

- (a) To receive, store, possess or consume light wine or beer at a resort area as defined in Section 67-1-5;
- (b) To distribute and transport light wine or beer to a resort area as defined in Section 67-1-5;
- (c) To transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;
- (d) To transport homemade beer as authorized in Section 67-3-11.

**SOURCES:** Codes, 1942, § 10208; Laws, 1934, ch. 171; Laws, 1942, ch. 224; Laws, 1956, ch. 252; Laws, 1958, ch. 279; Laws, 1987, ch. 349; Laws, 1996, ch. 417, § 11; Laws, 1998, ch. 306, § 7; Laws, 2004, ch. 397, § 6; Laws, 2012, ch. 323, § 7; Laws, 2012, ch. 501, § 4; Laws, 2013, ch. 345, § 3, eff from and after July 1, 2013.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error by adding “To” at the beginning of (d). The Joint Legislative Committee ratified the correction at its August 1, 2013, meeting.

**Amendment Notes** — The 2013 amendment added (3)(d); and made a minor stylistic change.

### § 67-3-15. Permit and/or license required.

(1) Any person who shall brew or manufacture or sell any beer or light wine without first having secured a permit and/or license from the commissioner authorizing the brewing or manufacture or sale of such liquor, shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the

county jail for not more than one (1) year, or both, in the discretion of the court. Any person so convicted may not apply for any permit or license issued by the commissioner until five (5) years have elapsed from the date of such conviction.

(2) This section shall not apply to beer authorized to be made pursuant to Section 67-3-11.

**SOURCES:** **Codes, 1942, § 10212; Laws, 1934, ch. 171; Laws, 1997, ch. 499, § 10; Laws, 2000, ch. 435, § 8; Laws, 2013, ch. 345, § 4, eff from and after July 1, 2013.**

**Amendment Notes** — The 2013 amendment added (2).



## TITLE 69

### AGRICULTURE, HORTICULTURE, AND ANIMALS

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### CHAPTER 1

#### **Agriculture and Commerce Department; Council on Agriculture**

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#### INTERAGENCY FARM TO SCHOOL COUNCIL

SEC.	
69-1-351.	Interagency farm to school council created; composition; objectives; report [Repealed effective July 1, 2015].
69-1-353.	Definitions.

#### **§ 69-1-351. Interagency farm to school council created; composition; objectives; report [Repealed effective July 1, 2015].**

(1) There is created an Interagency Farm to School Council, to identify models and methods of promoting farm to school programs in the state in order to improve the availability of healthy, fresh foods in schools and to promote the economic development of Mississippi farmers and food producers.

(2) The council shall be composed of the following members:

(a) One (1) person who represents the State Department of Education, appointed by the State Superintendent of Public Education;

(b) One (1) person who represents the Mississippi Department of Agriculture and Commerce, appointed by the Commissioner of Agriculture and Commerce;

(c) One (1) person who represents the State Department of Health, appointed by the State Health Officer;

(d) One (1) person who represents the Mississippi State University Extension Program;

(e) One (1) person who represents the Alcorn State University Extension Program;

(f) One (1) person who represents food service directors in Mississippi public schools, appointed by the State Superintendent of Public Education;

(g) One (1) person who represents a nonprofit organization in Mississippi working to promote farm to school programs, appointed by the Commissioner of Agriculture and Commerce;

(h) One (1) person who represents poultry producers in Mississippi, appointed by the President of the Mississippi Poultry Association;

(i) One (1) person who represents the Mississippi Farm Bureau Federation.

(3) In appointing members of the council, the appointing authority shall ensure that the members reflect the diversity of this state, with members representing rural areas, urban areas and different geographical regions of the state.

(4) The council is charged with facilitating the creation and growth of farm to school programs in communities throughout the State of Mississippi through studying, recommending and administering best practices for creating farm to school programs. This can be accomplished with actions including, but not limited to:

(a) Creating and administering an assessment or survey designed to evaluate what specific programs or efforts would be the most effective in increasing the number of farm to school programs in the State of Mississippi;

(b) Helping to develop and expand local pilot farm to school programs in Mississippi;

(c) Notifying and assisting interested schools, farms, and community organizations in applying for funding sources and grants related to supporting and decreasing the cost of purchasing locally grown and locally raised agricultural products to serve in school meals;

(d) Assisting Mississippi farmers in marketing and building commercial relationships with food service directors in schools;

(e) Developing or administering training programs for Mississippi farmers related to marketing crops, food safety, processing crops, business management, liability and risk management, and any other topics deemed appropriate by the council;

(f) Working with the Mississippi Department of Education Office of Child Nutrition to assist school food service directors in creating and amending school procedures, procurement forms, proper handling, preparing and storing procedures in order to facilitate the purchase of locally grown and locally raised agricultural products to be served in school meals;

(g) Developing or assisting an organization in developing a website that lists schools and farmers interested in participating in farm to school programs, promotes farm to school events and programs throughout the state and promotes communication and sales between Mississippi farmers and schools; and

(h) Encouraging schools, community organizations, restaurants, grocery retail stores and other local organizations and businesses to purchase more locally grown and locally raised agricultural products to serve or sell

through their businesses in order to support and increase local farmers' capacity to grow and produce food for commercial purposes.

(5) The council should hold its first meeting no later than August 1, 2013, with the date, time and location of this first meeting to be determined jointly by the members serving on the council. At the first meeting, the council shall elect a chairman, vice chairman, and any other officers deemed necessary, from its members. The council shall meet periodically but no less than four (4) times per year.

(6) Members of the council shall serve without compensation or reimbursement for their expenses related to participating in the council, and the council shall function without appropriations or state funds. However, the council can accept funds that may be offered as financial grants from public or private sources. The Mississippi State Legislature and any department, division, board, bureau, commission or agency of the state, or of any political subdivision thereof, may provide, at the request of the chair of the council, such facilities, assistance and data as will enable the council to carry out its duties.

(7) The council shall report its progress and findings to the Education Committees of the House of Representatives and the Senate, the Agriculture Committees of the House of Representatives and the Senate, the Public Health and Human Services Committee of the House of Representatives, the Public Health and Welfare Committee of the Senate, or any successor committees, on or before January 1, 2015, and once annually in each following year in which the council is convened.

(8) The provisions of this section shall stand repealed from and after July 1, 2015.

**SOURCES:** Laws, 2013, ch. 464, § 1, eff from and after passage (approved March 26, 2013.)

### **§ 69-1-353. Definitions.**

For purposes of Sections 69-1-351 and 69-1-353, the following terms shall have the meanings herein ascribed unless the context clearly indicates otherwise:

(a) "Council" means the Interagency Farm to School Council created in Section 69-1-351.

(b) "Farm to school program" means any commercial relationship where a school purchases locally grown or locally raised agricultural products to serve in school meals and can include educational programs for students on local agriculture and nutrition;

(c) "Locally grown or locally raised agricultural products" means any food products grown on Mississippi farms or gardens, and includes, but is not limited to, fruits, vegetables, and nuts grown in Mississippi, meat, poultry, eggs, dairy, fish, seafood and other aquatic products produced in Mississippi, and products processed into value-added products that are grown or produced in Mississippi;

(d) "School" means any K-12 accredited public or private institution for learning and also includes public and private preschools.

**SOURCES:** Laws, 2013, ch. 464, § 2, eff from and after passage (approved March 26, 2013.)

## **CERTIFICATES OF FREE SALE FOR AGRICULTURAL PRODUCTS EXPORTED FROM MISSISSIPPI**

SEC.

69-1-371.	Purpose.
69-1-373.	Definitions.
69-1-375.	Certificates of free trade for agricultural products grown or manufactured in, or distributed and sold from Mississippi; contents of request for certificate.

### **§ 69-1-371. Purpose.**

A certificate of free sale is sometimes required for agricultural products from Mississippi to enter importing states and foreign countries. Persons exporting products from Mississippi are often asked by importing states and foreign countries to supply a certificate for products registered with or regulated by the Mississippi Department of Agriculture and Commerce. The purpose of Sections 69-1-371 through 69-1-375 is to authorize the Mississippi Department of Agriculture and Commerce to issue a certificate of free sale for agricultural products and those products registered with or regulated by the department for the purpose of exporting these products from Mississippi.

**SOURCES:** Laws, 2013, ch. 509, § 1, eff from and after passage (approved April 23, 2013.)

### **§ 69-1-373. Definitions.**

As used in Sections 69-1-371 through 69-1-375:

(a) "Agricultural products" means, but is not limited to, any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock consumption or products that are used for agricultural purposes such as fertilizers and soil and plant amendments.

(b) "Department" means the Mississippi Department of Agriculture and Commerce.

**SOURCES:** Laws, 2013, ch. 509, § 2, eff from and after passage (approved April 23, 2013.)

**§ 69-1-375. Certificates of free trade for agricultural products grown or manufactured in, or distributed and sold from Mississippi; contents of request for certificate.**

(1) The department is authorized to issue certificates of free sale for products grown or manufactured in Mississippi or distributed and sold from Mississippi. The business must be in good standing with the Mississippi Secretary of State's office.

(2) All requests for certificates must be in writing and shall contain at least the following information:

- (a) The name under which the business is conducted and/or licensed;
- (b) The physical address where the business is conducted;
- (c) The type of operation conducted by the requesting establishment;
- (d) The product's full, common or usual name of the product, the name of the manufacturer and the size of the product. Each product size shall be submitted as a separate product. Products on the certificate will be listed exactly as submitted;
- (e) The country or countries to where the product is being shipped; and
- (f) The number of certificates requested.

(3)(a) Labeling information, promotional information, website information, master formulas, marketing clearance letters, distribution records, and advertising affixed to, accompanying, or relating to the products may be required to be submitted for each product upon request by the department.

If labeling is in a foreign language, applicant shall provide English translation. Labeling information shall be in final format. Label prototypes and drafts shall not be accepted.

(b) The certificate will list the product name, the manufacturer's name, and the product size, if applicable.

(4) The department assumes no legal liability by issuing these certificates, but merely serves to promote the export of agricultural products from the State of Mississippi.

**SOURCES:** Laws, 2013, ch. 509, § 3, eff from and after passage (approved April 23, 2013.)

## **CHAPTER 2**

### **Mississippi Farm Reform Act**

General Provisions ..... 69-2-1

## **GENERAL PROVISIONS**

SEC.	
69-2-5.	Information regarding programs and services; assistance provided by and donations to clearinghouse; report to Governor [Repealed effective July 1, 2019].
69-2-13.	Emerging Crops Fund; loans for agribusinesses and small business concerns; loans for planning and development districts; program to

assist minority business enterprises; loans for regional crafts projects; financing agribusiness programs; funds for rehabilitation, maintenance and advertising of Mississippi Farmers Central Market; program of loan guaranties on behalf of qualified nonprofit entities designated as community development financial institutions to encourage financing for loans in low-income communities; grants to certain agribusiness enterprises processing, drying, storing or shipping peanuts; program of loan guaranties on behalf of certain sweet potato growing and farming agribusinesses.

**§ 69-2-5. Information regarding programs and services; assistance provided by and donations to clearinghouse; report to Governor [Repealed effective July 1, 2019].**

(1) The Mississippi Cooperative Extension Service shall act as a clearinghouse for the dissemination of information regarding programs and services which may be available to help those persons and businesses which have been adversely affected by the present emergency in the agricultural community. The Cooperative Extension Service shall develop a plan of assistance which shall identify all programs and services available within the state which can be of assistance to those affected by the present emergency. The Department of Agriculture and Commerce, Department of Finance and Administration, Department of Human Services, Department of Mental Health, State Department of Health, Board of Trustees of State Institutions of Higher Learning, Mississippi Community College Board, Research and Development Center, Mississippi Development Authority, Department of Employment Security, Office of the Governor, Board of Vocational and Technical Education, Mississippi Authority for Educational Television, and other agencies of the state which have programs and services that can be of assistance to those affected by the present emergency, shall provide information regarding their programs and services to the Cooperative Extension Service for use in the clearinghouse. The types of programs and services shall include, but not be limited to, financial counseling, farm and small business management, employment services, labor market information, job retraining, vocational and technical training, food stamp programs, personal counseling, health services, and free or low cost legal services. The clearinghouse shall provide a single contact point to provide program information and referral services to individuals interested or needing services from state-funded assistance programs affecting agriculture, horticulture, aquaculture and other agribusinesses or related industries. Such assistance information shall identify all monies available under the Small Business Financing Act, the Business Investment Act, the Emerging Crops Fund legislation and any other sources which may be used singularly or combined, to provide a comprehensive financing package. The provisions of this section in establishing a single contact point for information and referral services shall not be construed to authorize the hiring of additional personnel.

(2) The Cooperative Extension Service may accept monetary or in-kind contributions, gifts and grants for the establishment or operation of the clearinghouse.

(3) The Cooperative Extension Service shall establish a method for the dissemination of information to those who can be benefited by the existing programs and services of the state.

(4) The Cooperative Extension Service shall file an annual report with the Governor, Lieutenant Governor and Speaker of the House of Representatives regarding the efforts which have been made in the clearinghouse operation. The report shall also recommend any additional measures, including legislation, which may be needed or desired in providing programs and benefits to those affected by the agricultural emergency.

**SOURCES:** Laws, 1987, ch. 482, § 3; Laws, 1988, ch. 503; Laws, 2004, ch. 572, § 56; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 56; reenacted and amended, Laws, 2010, ch. 559, § 56; reenacted without change, Laws, 2011, ch. 471, § 57; Laws, 2014, ch. 397, § 62, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment substituted “Mississippi Community College Board” for “State Board for Community and Junior Colleges” in the third sentence of (1).

**Cross References** — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

**§ 69-2-13. Emerging Crops Fund; loans for agribusinesses and small business concerns; loans for planning and development districts; program to assist minority business enterprises; loans for regional crafts projects; financing agribusiness programs; funds for rehabilitation, maintenance and advertising of Mississippi Farmers Central Market; program of loan guaranties on behalf of qualified nonprofit entities designated as community development financial institutions to encourage financing for loans in low-income communities; grants to certain agribusiness enterprises processing, drying, storing or shipping peanuts; program of loan guaranties on behalf of certain sweet potato growing and farming agribusinesses.**

(1) There is hereby established in the State Treasury a fund to be known as the “Emerging Crops Fund,” which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the issuance of

bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2)(a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars (\$1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees including, but not limited to, liquidation expenses.

(d) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(3)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for the following programs of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(b) The Mississippi Development Authority may make loans to agribusiness or greenhouse production horticulture enterprises. The amount of any loan to any single enterprise under this paragraph (b) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or Two Hundred Thousand Dollars (\$200,000.00), whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(c) The Mississippi Development Authority also may make loans under this subsection (3) to existing agribusiness or greenhouse production horti-

culture enterprises for the purpose of assisting such enterprises to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed Two Hundred Thousand Dollars (\$200,000.00) or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. No interest shall be charged on loans made under this paragraph, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(d) The maximum aggregate amount of loans that may be made under this subsection (3) to any one (1) agribusiness shall be not more than Four Hundred Thousand Dollars (\$400,000.00).

(4)(a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

- (i) The business enterprise must be a private, for-profit enterprise.
- (ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.
- (iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.
- (iv) The borrower must demonstrate ability to repay the loan.
- (v) The borrower must not be in default of any previous loan from the state or federal government.
- (vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.
- (vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or

investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to

provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice

thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars (\$1,000,000.00) to be used by the center to assist small

entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce "Make Mine Mississippi" program an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (15).

(16)(a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet

potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

- (i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;
- (ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;
- (iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and
- (iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c)(i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;
2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;
3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;
4. The amount of assistance requested;
5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and
6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

**SOURCES:** Laws, 1987, ch. 482, § 7; Laws, 1988, ch. 580, § 19; Laws, 1989, ch. 524, § 29; Laws, 1990, ch. 570, § 18; Laws, 1991, ch. 584, § 6; Laws, 1992, ch. 548, § 11; Laws, 1993, ch. 548, § 8; Laws, 1993, ch. 619, § 9; Laws, 1994, ch. 560, § 4; Laws, 1995, ch. 548, § 10; Laws, 1996, ch. 553, § 5; Laws, 1997, ch. 582, § 1; Laws, 1998, ch. 536, § 9; Laws, 2000, ch. 584, § 4; Laws, 2000, ch. 620, § 1; Laws, 2001, ch. 540, § 1; Laws, 2002, ch. 536, § 1; Laws, 2003, ch. 504, § 1; Laws, 2004, ch. 360, § 1; Laws, 2004, 3rd Ex Sess, ch. 1, § 95; Laws, 2006, ch. 564, § 1; Laws, 2007, ch. 586, § 1; Laws, 2008, ch. 506, § 6; Laws, 2009, ch. 557, § 31; Laws, 2010, ch. 429, § 1; Laws, 2010, ch. 511, § 27; Laws, 2011, ch. 420, § 1; Laws, 2012, ch. 415, § 1; Laws, 2013, ch. 386, § 1; Laws, 2014, ch. 427, § 9, eff from and after July 1, 2014.

**Amendment Notes —** The 2013 amendment deleted the automatic reverter provision, which would have become effective July 1, 2014.

The 2014 amendment added (2)(d).

## CHAPTER 3

### Agricultural Seeds

Article 1.	Sales .....	69-3-1
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## ARTICLE 1.

## SALES.

## SEC.

69-3-6.	Seed inspection fees.
69-3-25.	Penalties.
69-3-29.	Administrative procedures; applicability.

**§ 69-3-6. Seed inspection fees.**

(1) The department may establish seed inspection fees, prescribe and furnish forms, and require the filing of reports necessary for the payment of the inspection fees. The department may inspect the record of any seedsman during the normal hours of business operation as it deems necessary.

(2) All fees collected under this section shall be deposited into a special fund in the State Treasury. The department may expend the monies in the fund by an annual appropriation approved by the Legislature for the support of the Seed Division of the Bureau of Plant Industry.

(3) Every seedsman who sells or distributes seed for sale, whether in bulk or in containers, within or into Mississippi for planting purposes, shall be assessed a seed inspection fee as required by the department.

(4) Every seedsman must:

(a) Pay an inspection fee on the total number of pounds of seed sold or otherwise distributed for sale within or into the state. Payment of the seed inspection fees shall be the responsibility of the seedsman initiating the first sale of seed within or into the state;

(b) Maintain records, as required by the department, that accurately reflect the total pounds of seed subject to the fees that are handled, sold or offered, or distributed for sale;

(c) File quarterly reports on forms provided or approved by the department, covering the total pounds of all sales of seed subject to the fee and sold during the preceding quarter. The reports and fees due shall be filed with the department no later than thirty (30) days following the end of each calendar quarter.

(5) A seedsman who does not file the quarterly report by the due date shall pay a penalty fee as provided by the regulations of the department. The penalty fee shall be waived if the seedsman obtains prior written approval from the department for a late filing and complies with the late filing requirements.

(6) If a seedsman does not comply with all the requirements of this section, the commissioner may suspend the seedsman's permit until the seedsman is in compliance.

**SOURCES:** Laws, 2005, ch. 453, § 1; Laws, 2009, ch. 319, § 1; Laws, 2013, ch. 407, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment deleted “notarized” following “File quarterly” in (4)(c).

**§ 69-3-25. Penalties.**

Any person who violates any provision of this article or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

**SOURCES:** Codes, 1942, § 4397-12; Laws, 1964, ch. 204, § 12; Laws, 2000, ch. 623, § 7; Laws, 2005, ch. 453, § 3; Laws, 2013, ch. 407, § 2, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment deleted “knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts” following “Any person who”, substituted “article” for “act,” and substituted “more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment” for “less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00). Nothing in this act shall be construed as requiring the Commissioner to recommend prosecution for minor violations of this act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.”

**§ 69-3-29. Administrative procedures; applicability.**

(1) Whenever it has been alleged that any person or other entity has violated any of the provisions of this article, or any of the rules or regulations promulgated hereunder, the matter shall be conducted as an administrative proceeding under the terms and conditions of Sections 69-25-51 through 69-25-63, and where found culpable, such person or other entity shall be subject to the administrative and civil penalties provided therein.

(2) The procedures described herein shall not apply to seed arbitration claims which are described in Sections 69-3-20 through 69-3-22, as such claims shall be governed by the procedures set forth in those statutes.

**SOURCES:** Laws, 2000, ch. 623, § 8; Laws, 2013, ch. 407, § 3, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment added (1); deleted former (1) through (4) and redesignated former (5) as (2); and substituted “69-3-20 through 69-3-22” for “Section 69-3-19” and made a related minor stylistic change.

**CHAPTER 5****Fairs; Stock Shows; Improvement of Livestock**

Article 1.	Mississippi Fair Commission and State Fair Grounds .....	69-5-1
Article 3.	Stock Shows and Improvement of Livestock .....	69-5-101

## ARTICLE 1.

## MISSISSIPPI FAIR COMMISSION AND STATE FAIR GROUNDS.

SEC.	
69-5-3.	Powers and duties of Mississippi Fair Commission.
69-5-31.	Mississippi Fair Commission authorized to hire certain law enforcement officers to provide security on state fairgrounds; powers, duties and responsibilities of officers.

**§ 69-5-3. Powers and duties of Mississippi Fair Commission.**

(1) The Mississippi Fair Commission shall set up rules and regulations consistent with the law governing the distribution of state monies for premiums or awards. It will be the duty of the commission to meet at the call of the chairman, at least twice each year, to approve premium lists or awards, and give out rules governing participants in state premium money in Mississippi. The commission may invite the presidents of the various district livestock shows before the commission when determining policies affecting district livestock shows.

(2) The Mississippi Fair Commission is hereby authorized to accept money or funds donated to the commission, including funds to be awarded as prizes in livestock competition.

(3) The Mississippi Fair Commission shall have charge of the State Fairgrounds located in Jackson, Mississippi, including all buildings and improvements thereon, and shall have full power and authority in perfecting plans and causing to be held thereon the Mississippi State Fair and other such events that may be authorized by the commission.

(4) The Mississippi Fair Commission is hereby authorized to employ an attorney as prescribed in Section 69-1-14.

(5) The Mississippi Fair Commission may take any action authorized in Section 1 of Laws 2000, Chapter 306.

(6) The Mississippi Fair Commission may allow a commercial, charitable or governmental entity to use, publish and advertise such entity's name in connection with any of the buildings, improvements or objects located on the State Fairgrounds in Jackson, except for the Kirk Fordice Equine Center, or in connection with any of the events conducted on the State Fairgrounds in return for a monetary consideration paid to the commission. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the buildings, improvements, objects or events shall be retained by the commission to be used for capital improvements to the fairgrounds or in its annual operating budget. The commission shall not enter into any such agreement with any vendor whose products are illegal for participation in or use by persons eighteen (18) years of age and under.

(7) The chairman of the commission is authorized to form and establish a private foundation or nonprofit corporation to receive and disburse the funds generated by the sale of naming rights described in subsection (6) of this section and for any other donations made to the commission. The funds shall

be disbursed in accordance with guidelines described in this section, and the foundation or nonprofit corporation shall be subject to the reporting requirements described in subsection (10) of this section. All funds shall remain with the foundation until disbursement and shall not be transferred to the State General Fund. No public funds shall be deposited into the account of the private foundation or nonprofit corporation established by the commission for the benefit of the State Fairgrounds, nor shall the Legislature appropriate any State General Fund or Special Fund monies to the foundation or nonprofit corporation for such purposes. All monies received by the foundation shall be maintained separately from funds allocated to the commission for operating and administrative costs associated with the State Fairgrounds. In addition to the reporting of information to be included in the annual legislative report of the commission, the private foundation or nonprofit corporation shall be subject to annual financial audits by the State Auditor and by auditors of donors in the same manner as required for state agencies.

(8) The commission shall have the authority to enter into a lease or right-of-way with a third party covering any land or buildings on the State Fairgrounds and any funds generated from such lease or right-of-way shall remain in a special fund managed by the commission. All monies in the special fund may be used for capital improvements to the State Fairgrounds or in the commission's annual operating budget. Any unexpended funds remaining in the special fund shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited in the fund.

(9) The Mississippi Fair Commission is hereby authorized to adopt such rules and regulations as may be necessary or desirable to carry out, execute or implement the provisions of this article.

(10) The Mississippi Fair Commission shall report by January 1 of each year a detailed financial statement of all monies received and expended under subsection (6) and subsection (7) of this section to the Lieutenant Governor, the Speaker of the House of Representatives and the Chairman of the Senate Agriculture Committee and the Chairman of the House of Representatives Agriculture Committee.

**SOURCES:** Codes, 1942, § 4435-50; Laws, 1946, ch. 295, §§ 1-6; Laws, 1958, ch. 140, § 1; Laws, 1983, ch. 365, § 3; Laws, 2000, ch. 306, § 2; Laws, 2001, ch. 579, § 1; Laws, 2012, ch. 360, § 1; Laws, 2014, ch. 373, § 1, eff from and after July 1, 2014.

**Amendment Notes** — The 2014 amendment rewrote (2), which read: "The Mississippi Fair Commission is hereby authorized to accept money or funds donated to or to be awarded as prizes under regulations promulgated by the commission"; rewrote (3), which read: "The Mississippi Fair Commission shall have charge of designated state lands and buildings, and have full power and authority in perfecting plans and causing to be held an agricultural and industrial exposition annually, and other events from time to time on those lands and located for the promotion of Mississippi agriculture and industry"; in (6), inserted "improvements or objects located" and "in connection with" in the first sentence, and in the second sentence, inserted "improvements, objects," "to be used" and "or in its annual operating budget" and deleted "except that not less than

fifteen percent (15%) of such consideration shall be distributed annually to the Livestock Shows Fund that, by this subsection, is created in the State Treasury for premiums or awards in county, district and state livestock shows and the State High School Rodeo Finals. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the Dixie National Livestock Show and Rodeo shall be retained by the Fair Commission for capital improvements except One Hundred Thousand Dollars (\$100,000.00) may be used annually for advertising, promoting, premiums, awards and entertainment acts for the Dixie National Livestock Show and Rodeo" following "capital improvements to the fairgrounds"; and added (7), (8), and (9), and redesignated former (7) as (10).

**§ 69-5-31. Mississippi Fair Commission authorized to hire certain law enforcement officers to provide security on state fairgrounds; powers, duties and responsibilities of officers.**

(1) The Mississippi Fair Commission is authorized to hire and designate area law enforcement officers on a contractual basis to provide security and to enforce all laws of the State of Mississippi on the Mississippi State Fairgrounds Complex. All officers must have attended and satisfactorily completed the training course required for law enforcement officers at the Law Enforcement Officer's Training Academy or an equivalent facility. All officers must be current with this certification. A complete record of all law enforcement training of each employee will be maintained in each employee's record of employment. Furthermore, the Mississippi Fair Commission may enter into a contract with any certified law enforcement officer to provide security to the Mississippi Fair Commission with jurisdiction to enforce all laws of the State of Mississippi on property known as the "Mississippi State Fairgrounds Complex" and any and all of its outlying buildings and property.

(2)(a) All officers while in performance of their duty on the premises or at any of the facilities under the direction or control of the Mississippi State Fair Commission and public property immediately adjacent to such facilities shall:

- (i) Be required to dress in uniforms prescribed by the Mississippi State Fair Commission; and
- (ii) Be authorized to carry weapons.

(b) Employees designated as officers shall be duly sworn and vested with authority to bear arms and make arrests, and shall exercise primarily the responsibilities of the prevention and detection of crime, the apprehension of criminals, and the enforcement of the ordinances and policies of the Mississippi State Fair Commission, a political subdivision of the State of Mississippi. Employees designated as such officers shall be considered law enforcement officers within the meaning of Section 45-6-3.

SOURCES: Laws, 2013, ch. 357, § 1, eff from and after passage (approved March 18, 2013.)

ARTICLE 3.

STOCK SHOWS AND IMPROVEMENT OF LIVESTOCK.

SEC.

69-5-107. Dairy shows.

**§ 69-5-107. Dairy shows.**

Dairy shows shall be held, in addition to the livestock shows, each fall at Verona in Lee County, at Newton in Newton County, Tylertown in Walthall County, and at Purvis in Lamar County, and each summer at the Neshoba County Fair in Neshoba County, and any person in the state is entitled to participate in any of the dairy shows. The dairy shows shall be supervised and handled in the same manner as provided for livestock shows in Section 69-5-105, and each of the five (5) dairy shows herein provided for shall receive such part of the monies appropriated for the Mississippi Livestock Show as shall be specified in the act making such appropriation.

SOURCES: Codes, 1942, § 4905; Laws, 1938, ch. 183; Laws, 1940, ch. 217; Laws, 1946, ch. 251, §§ 1-6; Laws, 1948, chs. 195 (paragraph 4, *supra*) 218 (paragraph 2, *supra*); Laws, 1968, ch. 244, § 1; Laws, 1971, ch. 346, § 1; Laws, 1972, ch. 359, § 1; Laws, 1973, ch. 300, § 1 (d); Laws, 1979, ch. 335, § 1; Laws, 1995, ch. 370, § 2; Laws, 2002, ch. 476, § 1; Laws, 2013, ch. 349, § 1, eff from and after passage (approved March 18, 2013.)

**Amendment Notes** — The 2013 amendment substituted “Purvis in Lamar County” for “Columbia in Marion County” preceding “and each summer at the Neshoba County Fair” in the first sentence.

CHAPTER 7

**Markets and Marketing; Domestic Fish Farming**

Article 13. Catfish Marketing ..... 69-7-601

ARTICLE 13.

CATFISH MARKETING.

SEC.

69-7-607. Labeling of catfish and fish products; notice of country of origin; method of notification; record-keeping audit trail; commissioner authorized to inspect businesses for compliance; exceptions.

**§ 69-7-607. Labeling of catfish and fish products; notice of country of origin; method of notification; record-keeping audit trail; commissioner authorized to inspect businesses for compliance; exceptions.**

(1) Notice of country of origin.

(a) General requirements:

(i) All retailers of catfish and fish products, as defined in Section 69-7-605, shall inform consumers, at the final point of sale of the catfish or fish to the consumers, of the country of origin of the catfish or fish;

(ii) United States country of origin. A retailer of catfish or fish products may designate the catfish or fish as having a United States country of origin only if:

1. In case of "Farm-raised Catfish or Farm-raised Fish," it is hatched, raised, harvested and processed in the United States;

2. In case of "River or Lake Catfish or River or Lake Fish," it is:

a. Harvested in waters of the United States, a territory of the United States or a state, including the waters thereof; and

b. Processed in the United States, a territory of the United States or a state, including the waters thereof;

(iii) Farm-raised and River or Lake Catfish, Farm-raised and River or Lake Fish. The notice of country of origin for "Farm-raised Catfish," or "Farm-raised Fish," and "River or Lake Catfish" or "River or Lake Fish" shall distinguish between "Farm-raised Catfish" and "River or Lake Catfish" or "Farm-raised Fish" and "River or Lake Fish."

(b) Method of notification.

(i) Retailers.

1. The information required by paragraph (a) of subsection (1) of this section may be provided to consumers by means of a label, stamp, mark, placard or other clear and visible sign on the catfish or fish or on the package, display, holding unit or bin containing the catfish or fish at the final point of sale to consumers.

2. If the catfish or fish is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(ii) Food service establishments. The information required by paragraph (a) of subsection (1) of this section shall be provided to the consumer on the menu of the food service establishment. For foreign or imported catfish or fish, the information shall be adjacent to the item on the menu and printed in the same font style and size as the item. If the food service establishment offers for sale only catfish or fish having a United States country of origin, then the food service establishment may generally disclose this in a prominent location in the food service establishment in lieu of disclosure on the menu. The signage disclosing the sale of catfish or fish having a United States country of origin, that is to be placed in a prominent location in the food service establishment, shall be approved by

the Mississippi Department of Agriculture and Commerce, which shall be held harmless in a cause of action for a retail or food service establishment's failure to disclose or fraudulent disclosure. Any liability arising from failure to disclose country of origin shall remain with the wholesaler and the retail or food service establishment.

(c) The commissioner may require that any person that prepares, stores, handles or distributes catfish or fish for retail sale maintain a verifiable record-keeping audit trail that permits the commissioner to verify compliance with this law and any regulations promulgated hereunder.

(d) Any distributor or wholesaler engaged in the business of supplying catfish or fish to a retailer or food service establishment shall provide information to the retailer or food service establishment indicating the country of origin of the catfish or fish. The information shall include certification of origin through a state or federal agency that regulates the processing of catfish or fish or through a federal agency that verifies that catfish or fish and/or other products produced in countries other than the United States meets similar sanitation requirements.

(2) Any advertising as to any catfish or fish product shall state the information required in paragraph (a) of subsection (1) of this section.

(3) The term "catfish" shall not be used as a common name or in the label name of fish product except as provided in this section.

(4) The commissioner shall have authority to enter the premises of any wholesaler, processor, distributor, retailer or any other person selling catfish or fish products in order to determine compliance with this article.

(5) This section shall not apply to catfish or fish products exported out of the United States.

**SOURCES:** Laws, 1975, ch. 308, § 4, eff 180 days from and after passage (approved February 14, 1975); Laws, 2002, ch. 506, § 2; Laws, 2004, ch. 377, § 2; Laws, 2008, ch. 449, § 3; reenacted without change, Laws, 2010, ch. 304, § 5; Laws, 2013, ch. 371, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment inserted all references to "and fish," "or fish," "Farm-raised Fish," "River or Lake Fish" and "Farm-raised and River or Lake Fish" throughout the section; inserted "as defined in Section 69-7-605" in (1)(a)(i), and deleted "as indicated by a stamp or seal" following "shall be approved" in the next-to-last sentence of (1)(b)(ii).

## CHAPTER 25

### Plants, Plant and Bee Diseases

Article 2.	Administrative Hearing Procedure for Bureau of Plant Industry .....	69-25-51
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#### ARTICLE 2.

##### ADMINISTRATIVE HEARING PROCEDURE FOR BUREAU OF PLANT INDUSTRY.

SEC.	.	
69-25-51.	Alleged violation of rules and regulations of Bureau of Plant Industry;	

right to hearing; Director of the Bureau of Plant Industry as reviewing officer; determination; penalty.

**§ 69-25-51. Alleged violation of rules and regulations of Bureau of Plant Industry; right to hearing; Director of the Bureau of Plant Industry as reviewing officer; determination; penalty.**

(1) When any administrative allegation or charge is made against a person for violating the rules and regulations of the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce or the laws under Sections 69-3-1 through 69-3-29, Sections 69-19-1 through 69-19-15, Sections 69-21-101 through 69-21-128, Sections 69-23-1 through 69-23-135, Sections 69-25-1 through 69-25-47 or Sections 69-25-101 through 69-25-109, Mississippi Code of 1972, the Director of the Bureau of Plant Industry, or his designee, shall act as the reviewing officer. The complaint must be in writing, signed by the person making the charge, and filed in the Office of the Bureau of Plant Industry. The department shall send a copy of the complaint and any supporting documents to the person accused along with a summons requiring the accused to respond to the allegations within thirty (30) days. The notification shall be accomplished by any of the methods provided for in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. If the accused does not respond within the thirty-day period, he shall be considered to be in default. Upon receipt of the response and any supporting documents from the accused, the reviewing officer shall determine the merits of the complaint. The reviewing officer may meet informally with the accused and discuss the alleged violation with him.

(2) If the reviewing officer determines that the complaint lacks merit, he may dismiss the complaint.

(3) If the reviewing officer determines that there is substantial evidence that a violation has occurred or if the accused admits to the truth of the allegations upon which the complaint is based, the reviewing officer may impose an appropriate penalty on the accused, which may be any or all of the following:

(a) Issue a warning letter.

(b) Suspend, modify, deny, cancel or revoke any license or permit granted by the department to the accused.

(c) Issue a stop sale order with regard to any pesticide, plant or other material regulated by the department that is mislabeled or otherwise not in compliance with applicable law or regulations.

(d) Require the accused to relabel any pesticide, plant or other material regulated by the department that is mislabeled.

(e) Seize any pesticide, plant or other material regulated by the department and sell, destroy or otherwise dispose of the material and apply the proceeds of the sale to the state's expenses and any fees or penalties levied under this article.

(f) Refuse to register, cancel or suspend the registration of a pesticide, plant or other material that is not in compliance with any applicable law or regulation.

(g) Levy a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

In determining the amount of the penalty, the reviewing officer shall consider the appropriateness of the penalty for the particular violation, the effect of the penalty on the person's ability to continue in business and the gravity of the violation.

(4) If the accused requests a hearing with the department, in writing, within thirty (30) days from receipt of the decision of the reviewing officer, the commissioner shall appoint three (3) members of the advisory board to the Bureau of Plant Industry to act as a hearing committee and a hearing shall be scheduled. If the accused fails to request a hearing within the thirty-day period, the decision of the reviewing officer is final.

**SOURCES:** Laws, 1992, ch. 474, § 1; Laws, 2005, ch. 533, § 1; Laws, 2008, ch. 353, § 1; Laws, 2009, ch. 515, § 17; Laws, 2012, ch. 502, § 2; Laws, 2013, ch. 407, § 4, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment inserted “Sections 69-3-1 through 69-3-29” in the first sentence of (1).

## CHAPTER 34

### Milk Producers Transportation Cost Assistance Loan Program

SEC.

69-34-1. Repealed.

#### § 69-34-1. Repealed.

Repealed by Laws, 2009, ch. 389, § 1, eff from and after December 31, 2012.

§ 69-34-1. [Laws, 2007, ch. 571, § 1; Laws, 2009, ch. 389, § 1, eff from and after July 1, 2009.]

**Editor's Note** — Former § 69-34-1 created the Milk Producers Transportation Cost Assistance Loan Fund.

## CHAPTER 45

### Mississippi Agricultural Promotions Program Act

SEC.

69-45-5. Definitions.

#### § 69-45-5. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

- (a) "Commissioner" means the Commissioner of Agriculture and Commerce.
- (b) "Department" means the Department of Agriculture and Commerce.
- (c) "Person" means an individual, firm, partnership, corporation, association, business, trust, legal representative or any other business unit.
- (d) "Reproduce" means to stencil, emboss, print, engrave, impress, imprint, lithograph or duplicate in any manner or to cause any such acts to be done.
- (e) "Agricultural product" means any product that is at least fifty-one percent (51%) grown, processed or manufactured in the State of Mississippi.
- (f) "Division" means the Division of Market Development within the Department of Agriculture and Commerce.

The words "logo" and "program," whenever used in this chapter, shall include the plural as well as the singular.

**SOURCES:** Laws, 1999, ch. 509, § 11; Laws, 2014, ch. 356, § 1, eff from and after passage (approved Mar. 17, 2014.)

**Amendment Notes** — The 2014 amendment added the last paragraph.

## CHAPTER 53

### Agritourism [Repealed effective July 1, 2018]

SEC.

69-53-9. Repeal of chapter [Repealed effective July 1, 2018].

### § 69-53-1. Definitions [Repealed effective July 1, 2018].

**SOURCES:** Laws, 2012, ch. 418, § 1, eff from and after passage (approved Apr. 18, 2012.)

**Editor's Note** — This section's heading and Sources information are being set out to reflect the extension of the repealer for the section, found in Section 69-53-9, from July 1, 2014, to July 1, 2018. The language in the section is unchanged and is not reprinted in this supplement.

### § 69-53-3. Agritourism activity liability [Repealed effective July 1, 2018].

**SOURCES:** Laws, 2012, ch. 418, § 2, eff from and after passage (approved Apr. 18, 2012.)

**Editor's Note** — This section's heading and Sources information are being set out to reflect the extension of the repealer for the section, found in Section 69-53-9, from July 1, 2014, to July 1, 2018. The language in the section is unchanged and is not reprinted in this supplement.

**§ 69-53-5. Warning notice [Repealed effective July 1, 2018].**

**SOURCES:** Laws, 2012, ch. 418, § 3, eff from and after passage (approved Apr. 18, 2012.)

**Editor's Note** — This section's heading and Sources information are being set out to reflect the extension of the repealer for the section, found in Section 69-53-9, from July 1, 2014, to July 1, 2018. The language in the section is unchanged and is not reprinted in this supplement.

**§ 69-53-7. Registration of agritourism professionals [Repealed effective July 1, 2018].**

**SOURCES:** Laws, 2012, ch. 418, § 4, eff from and after passage (approved Apr. 18, 2012.)

**Editor's Note** — This section's heading and Sources information are being set out to reflect the extension of the repealer for the section, found in Section 69-53-9, from July 1, 2014, to July 1, 2018. The language in the section is unchanged and is not reprinted in this supplement.

**§ 69-53-9. Repeal of chapter [Repealed effective July 1, 2018].**

This chapter shall stand repealed on July 1, 2018.

**SOURCES:** Laws, 2012, ch. 418, § 5; Laws, 2014, ch. 355, § 1, eff from and after passage (approved Mar. 17, 2014.)

**Amendment Notes** — The 2014 amendment extended the date of the repealer for this chapter by substituting "July 1, 2018" for "July 1, 2014."

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